IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION NO : 22346 of 2003

Between:
N.V. Raghavaiah, S/o. Venkateswara Rao
R/o. Sampathnagar Road, Gopalnagar, Dr.No. 12/129, Kothapet,
Chirala, Ongole, Prakasam Dist.

..... PETITIONER

AND

1 The Dist. Cooperative Central Bank Ltd., Ongole, Rep by its General Manager, Ongole, Prakasam Dist.
2 The Dist. Cooperative Central Bank Ltd., Chirala Branch, rep by its Branch Manager,
Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ one in the nature of Writ of Mandamus declaring the action of the respondent in not paying the retirement benefits and the consinuation of the Departmental Enquiry after retirement as arbitrary, illegal, unjust and contrary to the regulations and consequently declare that the enquiry has lapsed and direct the respondents to pay full retirement benefits to the petitioner.

Counsel for the Petitioner:SMT.N.SHOBA

Counsel for the Respondents: SMT.KAVITHA GOTTIPATI

The Court made the following :

O R D E R:

The facts of the case in brief are that the petitioner worked as Branch Manager of the District Co-operative Central Bank Limited, Ongole and on attaining the age of superannuation, he retired from service on 31.05.2003. On 29.04.2003, the 1st respondent-General Manager of the District Co-operative Central Bank Limited, Prakasam District Bank issued notice to the petitioner stating that on attaining the age of superannuation, the petitioner has to retire from the service on 31.05.2003, at the end of the working hours. While the petitioner was working in Chirala Branch as Branch Manager, the 1st respondent issued a charge memo in R.C.No.Dev/D.help-self/2003, dated 30.04-2003 stating that the petitioner has committed several procedural irregularities in sanction of self-help loans sanctioned by the Chirala Branch of the Bank to a tune of Rs.13.05 lakhs and he has to retire from service subject to the condition of disciplinary action to be taken against him for violation of certain norms settled for sanction of loans. On receipt of the charge memo, on 20.05.2003 the petitioner submitted his explanation denying the said charges by stating that as all the amounts are recovered,

there is no default on his part. In spite of the same, an Enquiry Officer was appointed vide proceedings No.Dev/S1/SJP/2003, dated 11.07.2004. Even after the retirement of the petitioner, the Enquiry Officer continued the enquiry against the petitioner. On 25.08.2003 the Enquiry Officer submitted his report observing that out of five charges two charges were proved and it was found that without obtaining proper salary certificate and surety bond, the petitioner sanctioned loans and because of his negligence, the Bank has suffered an amount of Rs.24,065/-, which was not recovered from the petitioner till today. Therefore, the petitioner was directed to pay the said amount.

The learned counsel for the respondents submits that no doubt, the regulations, bye laws and relevant rules do not authorize the continuance of disciplinary proceedings after the retirement of an employee, but in the notice, dated 29.04.2003 it was mentioned that the retirement of the petitioner shall not be a hindrance to the Bank for the recovery of loss sustained by the Bank because of the acts committed by the petitioner and his retirement would be subject to the condition that disciplinary action shall be instituted against him for any acts committed by him wilfully and deliberately upto one year period from the date of his retirement. As the petitioner was neither placed under suspension nor his services were continued for the purpose of enquiry, there is an irregularity on the part of the respondents in continuing the enquiry.

Admittedly, the petitioner has retired from service on 31.05.2003 after the issuance of notice, dated 29.04.2003 issued by the respondents. The Apex Court in the case of BHAGIRATHI JENA VS. BOARD OF DIRECTORS, O.S.F.C. & OTHERS[1] held that once the employee retires from service, there was no authority vested in the employer for continuing the departmental

enquiry even for the purpose of imposing any reduction in the retrial benefits payable to the employee. In the absence of such authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement.

This Court and the Apex Court in catena of decisions held that when once the employee retires from service either on attaining the age of superannuation or under the Voluntary Retirement Scheme, the relationship between the employer and the employee seizes to exist and in the absence of any Regulations or Rules authorizing the employer to take or continue the disciplinary proceedings, the action of the respondents in proceeding with the enquiry against an employee even after his retirement is illegal and without jurisdiction. In the instant case, as the petitioner was allowed to retire from the service, I am of the view that continuation of the said disciplinary proceedings are illegal and the petitioner is entitled for all retirement benefits.

Accordingly, the writ petition is allowed, directing the respondents to pay full retrial benefits to the petitioner within a period of two weeks from the date of receipt of a copy of this order, without reference to the enquiry report, which was concluded subsequent to the retirement of the petitioner. No costs.

31.08.2004

tjs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Dist. Cooperative Central Bank Ltd., Ongole, Rep by its General Manager, Ongole, Prakasam Dist.

2 The Dist. Cooperative Central Bank Ltd., Chirala Branch, rep by its Branch Manager,
Prakasam Dist.

3 2CCs to the G.P.for Services, High Court of A.P., Hyderabad.

4. 2CD copies

---

[1]) JT 1999(3) SC 52